

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

BETTER BAGS, INC.) Civil Action No. 4:09-cv-03093
Plaintiff- Counter Defendant)
v.)
REDI BAG USA LLC)
Defendant- Counter Plaintiff)

VERDICT FORM

We, the Jury, unanimously find as follows:

Infringement of U.S. Patent Number 7,314,137 ("the '137 Patent")

1. Do you find, by a preponderance of the evidence, that the Better Bags' accused bag dispenser literally infringes the following claims of the '137 patent? (A "yes" answer to this question is a finding for Redi Bag. A "no" answer is a finding for Better Bags.)

| | | |
|----------------------|-----------|--|
| Independent Claim 1 | Yes _____ | No <input checked="" type="checkbox"/> |
| Dependent Claim 5 | Yes _____ | No <input checked="" type="checkbox"/> |
| Dependant Claim 6 | Yes _____ | No <input checked="" type="checkbox"/> |
| Independent Claim 11 | Yes _____ | No <input checked="" type="checkbox"/> |
| Dependent Claim 15 | Yes _____ | No <input checked="" type="checkbox"/> |
| Dependant Claim 16 | Yes _____ | No <input checked="" type="checkbox"/> |

2. Do you find, by a preponderance of the evidence, that Better Bags' bag dispenser infringes the following claims of the '137 patent under the doctrine of equivalents? (A "yes" answer to this question is a finding for Redi Bag. A "no" answer is a finding for Better Bags.)

| | | |
|----------------------|-----------|-------------|
| Independent Claim 1 | Yes _____ | No <u>✓</u> |
| Dependent Claim 5 | Yes _____ | No <u>✓</u> |
| Dependant Claim 6 | Yes _____ | No <u>✓</u> |
| Independent Claim 11 | Yes _____ | No <u>✓</u> |
| Dependent Claim 15 | Yes _____ | No <u>✓</u> |
| Dependent Claim 16 | Yes _____ | No <u>✓</u> |

If your answer to both questions 1 and 2 above is "no," do not answer any further questions.

3. If your answer to either question 1 or 2 above is yes, do you find, by clear and convincing evidence, that the Better Bags' infringement of the '137 patent was willful? (A "yes" answer to this question is a finding for Redi Bag. A "no" answer is a finding for Better Bags.)

Yes _____ No _____

Affirmative Defenses

3. Do you find, by a preponderance of the evidence, that Redi Bag waived its right to claim that Better Bags' accused bag dispenser infringed any of the claims of the '137 patent? (A "yes" answer to this question is a finding for Better Bags. A "no" answer is a finding for Redi Bags.).

Yes _____ No _____

4. Do you find, by a preponderance of the evidence, that Redi Bag is precluded by estoppel from claiming that Better Bags' accused bag dispenser infringed any of the claims of the '137 patent? (A "yes" answer to this question is a finding for Better Bags. A "no" answer is a finding for Redi Bags.).

Yes _____ No _____

If your answer to either question 3 or 4 above is "yes," then do not answer any further questions. If your answer to both questions 3 and 4 are "no," then answer questions 5 and 6 below.

5. Do you find, by a preponderance of the evidence, that Redi Bag discharged Better Bags from any claims of infringement of the '137 patent by Better Bags' accused bag dispenser for infringement that occurred *before* June 9, 2009 because of accord and satisfaction? (A "yes" answer to this question is a finding for Better Bags. A "no" answer is a finding for Redi Bags.)

Yes _____ No _____

6. Do you find, by a preponderance of the evidence, that Redi Bag discharged Better Bags from any claims of infringement of the '137 patent by Better Bags' accused bag dispenser for infringement that occurred *after* June 9, 2009 because of accord and satisfaction? (A "yes" answer to this question is a finding for Better Bags. A "no" answer is a finding for Redi Bags.)

Yes _____ No _____

If your answer to both questions 5 and 6 above is "yes," then do not answer any further questions. If your answer to either question 5 or 6 is "no," then answer questions 7 and 8 below.

7. Do you find, by a preponderance of the evidence, that Redi Bag released Better Bags from any claims of infringement of the '137 patent by Better Bags' accused bag dispenser for infringement that occurred *before* June 9, 2009? (A "yes" answer to this question is a finding for Better Bags. A "no" answer is a finding for Redi Bags.)

Yes _____ No _____

8. Do you find, by a preponderance of the evidence, that Redi Bag released Better Bags from any claims of infringement of the '137 patent by Better Bags' accused bag dispenser for infringement that occurred *after* June 9, 2009? (A "yes" answer to this question is a finding for Better Bags. A "no" answer is a finding for Redi Bags.)

Yes _____ No _____

If your answer to both questions 7 and 8 above is “yes,” then do not answer any further questions. If your answer to either question 7 or 8 is “no,” then answer questions 9 and 10 below.

Damages Owed to Redi Bag for Infringement of the '137 Patent

9. Is Redi Bag entitled to lost profits for damages from Better Bags' sale of infringing bags?

Yes _____ No _____

If your answer to question 9 is "no", skip questions 10 and 11, and proceed to question 12.

10. If you found that Better Bag's product infringes at least one claim of the '137 patent in either question 1 or 2, and answered "no" to both questions 5 and 7, what is the amount of lost profits for the period of January 1, 2008 through June 9, 2009?

Amount of lost profits: \$_____.

11. If you found that Better Bag's product infringes at least one claim of the '137 patent in either question 1 or 2, and answered "no" to both questions 6 and 8, what is the amount of lost profits in Dollars for the period of June 9, 2009 through June 30, 2011?

Amount of lost profits: \$_____.

12. Is Redi Bag entitled to reasonable royalties for damages from Better Bags sale of infringing bags?

Yes _____ No _____

If your answer to question 12 is "no", skip questions 13 and 14.

13. If you found that Better Bag's product infringes at least one claim of the '137 patent in either question 1 or 2, and answered "no" to both questions 5 and 7, what is the amount of reasonable royalty owed for the period of January 1, 2008 through June 9, 2009?

Amount of royalty \$ _____.

14. If you found that Better Bag's product infringes at least one claim of the '137 patent in either question 1 or 2, and answered "no" to both questions 6 and 8, what is the amount of reasonable royalty owed for the period of June 9, 2009 through June 30, 2011?

Amount of royalty \$ _____.

CERTIFICATE

We, the jury, have answered the above and foregoing questions as herein indicated, and herewith return same into court as our verdict.

I certify that the jury was unanimous in answering all of the questions.

PRESIDING JUROR

1/13/2012

PRINTED NAME OF PRESIDING JUROR